



# UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

---

Case No. 2019-1318

**Larriera**

**(Appellant)**

**v.**

**The United Nations Joint Staff Pension Board**

**(Respondent)**

**Order No. 369 (2020)**

1. On 8 October 2019, Ms. Carolina Larriera appealed the decision, which was upheld by the Standing Committee of the United Nations Joint Staff Pension Board, not to recognize her as the surviving spouse of a former staff member, who died in service in 2003. The United Nations Joint Staff Pension Fund (Fund or UNJSPF) filed an answer on 29 November 2019.

2. On 18 February 2020, Ms. Larriera filed a motion to submit additional documentation. She is seeking permission to attach the Secretary-General's Bulletin ST/SGB/2004/12 (Personal status for purposes of United Nations entitlements) dated 24 September 2004 as Annex 19 to her appeal. She explains that this document is already in the Respondent's possession, and to admit it would not cause any injury to the Fund, but it could facilitate the work of the Appeals Tribunal, as this administrative issuance was cited in some Appeals Tribunal judgments and has relevance to the prevailing practice of the Organization.

3. On 26 February 2020, the Fund filed a response to the motion. The Fund maintains that the said document, which was promulgated by the Secretary-General of the United Nations, governs recognition of personal status for the United Nations employment benefit purposes, but has no relevance to the determination and recognition of personal status for the UNJSPF pension benefit purposes. The Fund notes that the Secretary-General of the United Nations has no authority to administer UNJSPF or to

make, amend or interpret administrative issuances concerning the UNJSPF benefits. Nonetheless, the Fund has no objection to this former Secretary-General's Bulletin being adduced into record since it is a publicly available legal issuance of the United Nations.

4. Article 2(5) of the Appeals Tribunal's Statute provides:

In exceptional circumstances, and where the Appeals Tribunal determines that the facts are likely to be established with documentary evidence, including written testimony, it may receive such additional evidence if that is in the interest of justice and the efficient and expeditious resolution of the proceedings.

5. On the merits, apart from the fact that Ms. Larriera does not demonstrate "exceptional circumstances" justifying the granting of her motion, her request seeking leave to submit the Secretary-General's Bulletin ST/SGB/2004/12 (Personal status for purposes of United Nations entitlements) dated 24 September 2004 as Annex 19 to her appeal essentially amounts to a request for leave to submit a legal instrument to support her appeal, which does not constitute evidence. It is incumbent on Ms. Larriera to furnish the facts of the present case which support her arguments and the relief sought by her (*da mihi factum, dabo tibi ius*), and it is the responsibility of the Judge to establish the applicable law (*jura novit curia*). Therefore, having in mind that, in principle, only the former, and not the latter, may constitute the subject matter of the evidentiary proceedings, even though the notion of fact is understood in relation to the substantive rules which base the relevant claims or defenses of a party, I was at first inclined to reject Ms. Larriera's motion. However, considering that the Fund has no objection to this former Secretary-General's Bulletin being adduced into record since it is a publicly available legal issuance of the United Nations, and that it will better serve the interests of justice for this document to be part of the file, I have decided to admit it. The Appeals Tribunal will decide upon its actual relevance when it considers the case.

**IT IS HEREBY ORDERED** that Ms. Larriera's motion seeking leave to file additional evidence is **GRANTED**.

Original and Authoritative Version: English

Dated this 15<sup>th</sup> day of March 2020  
in Athens, Greece

*(Signed)*  
Judge Dimitrios Raikos,  
Presiding Judge

Entered in the Register on this 16<sup>th</sup> day of  
March 2020 in New York, United States

*(Signed)*  
Weicheng Lin,  
Registrar